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Memorial of Indian delegates from the Indian Territory protesting against the adoption of the amendment proposed by the Senate to the bill (H. R. 2343) providing for the appointment of a superintendent of schools in that territory

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# MEMORIAL

OF

## INDIAN DELEGATES FROM THE INDIAN TERRITORY

PROTESTING AGAINST

*The adoption of the amendment proposed by the Senate to the bill (H. R. 2343) providing for the appointment of a superintendent of schools in that Territory.*

JUNE 1, 1874.—Referred to the Committee on Appropriations and ordered to be printed.

*To the Congress of the United States:*

The undersigned respectfully call the attention of your honorable body to the first of the *amendments* proposed the 26th instant, from the Committee on Indian Affairs, of the Senate, to the act (H. R. 2343,) making appropriations for the current and contingent expenses of the Indian Department, &c., for the year ending June 30, 1875. This amendment proposes to authorize "the Secretary of the Interior to appoint a superintendent of education, who shall, under such instructions as may be given to him by the Commissioner of Indian Affairs, approved by the Secretary of the Interior, have general supervision over all the schools established, or that may be established, among the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles in the Indian Territory. Such superintendent shall be allowed an annual salary of two thousand dollars, and five hundred dollars for traveling and all incidental expenses of every kind; the same to be paid on vouchers, *pro rata*, from the educational funds of said tribes." We respectfully object to the adoption of this amendment, for the following reasons:

It is in conflict with existing treaties in these particulars: It authorizes an intervention in the affairs of the nations named, which are of a purely tribal character, and thus interferes with the right of local self-government guaranteed to them by all their treaties. This is notably the case in the treaty of 1866 with the Choctaws and Chickasaws, which declares "that the legislation of Congress shall not in any wise interfere with or annul their present organization, or their respective legislatures, or judiciaries; or the rights, laws, privileges, or customs of said tribes, respectively." The guarantees to the other nations named are equally explicit and of the same character. Among these rights and privileges are those of legislating for their own people in such manner as they may deem proper, and not contrary to the Constitution of the United States and the laws regulating trade and intercourse between them, and of directing and controlling the application of their own funds. In the exercise of these rights the nations, to whom this

amendment is made to apply, have established their own forms of government and systems of education and made ample provision for their support. They have their own superintendents of schools, whose powers, duties, compensation, and duration in office are clearly defined by law. Some of these systems have been in operation for more than thirty years, and the communities supporting them have no cause to be ashamed of either their character or the results they have accomplished, or of their present condition, or their prospective usefulness in the dissemination of knowledge among their people. During their long years of experiment, growth, and genuine progress there has been no effort made by the Government to interfere with, or control, or superintend them in any manner whatever, and we are aware of no sufficient reason why it should seek or desire to do so at present.

This amendment, we further submit, conflicts with those provisions of trustees which provide for the payment of the funds due these nations. By the 13th article of the treaty of 1855 with the Choctaws and Chickasaws, it is stipulated that their funds shall be regularly and judiciously applied under the direction of the general council of the Choctaws for the support of their government for the purposes of education, &c. By the 6th article of the treaty of 1866 with the Creek Indians, the United States agreed to pay the Creek Nation, for the considerations enumerated in said treaty, the sum of one million of dollars; two hundred thousand dollars of this sum were to be invested, and the proceeds applied to purposes of education among the Creeks. The practice under this treaty from its date to the present time fixes its construction, and clearly gives the Creeks the right, through their national council, to make the application of their own school-fund. The Seminoles by the 3d article of their treaty of 1866 ceded their entire possessions to the United States, and created, from a part of the proceeds, a school-fund, and stipulated that the interest thereof should be paid annually and appropriated to the support of schools.

It is stipulated in the twenty-third article of the treaty of 1866, with the Cherokees, that the interest on all their funds shall be paid semi-annually on the order of the Cherokee National Council, and be applied in the manner set forth in said treaty. The ninth article of the Chickasaw and Choctaw treaty of 1866 expressly declares that their funds invested for the purposes of education by treaties existing in 1861 shall remain so, and "the interest thereof shall be applied for the same purposes in such manner as shall be designated by the legislative authorities of the Choctaw and Chickasaw Nations respectively." In view of these stipulations of existing treaties, we respectfully submit that Congress has no authority to enact the amendment in question.

Aside from these considerations there are others, on the score of fairness and expediency, which should not be overlooked. It will be unjust for the Government to create an office, fill it with its own appointee, and appropriate, without their consent, the funds of these Indians to pay *his* salary and traveling expenses; inexpedient, because the superintendent will be objectionable to the people among whom he will be sent from the simple circumstance of his appointment, because he will be amenable to no law and responsible to no authority for the manner in which the duties imposed upon him at the discretion of the power appointing are performed, nor for the use or abuse of his functions, and because the inevitable effect of his appointment will be interference with the laws and rights of the Indians, conflict with their authorities, and consequent discord, confusion, and injury

to the schools of the civilized tribes. For these reasons we respectfully protest against the passage by Congress of the proposed amendment.

Respectfully submitted.

WILL. P. ROSS,  
*Principal Chief.*

H. W. BUSHYHEAD,

W. P. ADAIR,

RUFUS O. ROSS,  
*Cherokee Delegation.*

JOHN B. JONES,  
*Cherokee Delegate.*

D. N. MCINTOSH,

P. PORTER,  
*Creek Delegation.*

P. P. PITCHLYNN,  
*Choctaw Delegate.*

G. D. JAMES,  
*Chickasaw Delegate.*

WASHINGTON, D. C.,  
June 1, 1874.

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